

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LAMAR MARSHALL,

Plaintiff, :
: Civil Action No.
v. :
:

**DELAWARE COUNTY D/B/A GEORGE
W. HILL CORRECTIONAL FACILITY;
LAURA K. WILLIAMS; DELE FALY;
LISA MASTRODDI; MR. BANKS;
COUNSELOR SAM; HEAD OF
MAINTENANCE DEPARTMENT;
JESSAMINE HEALTHCARE, INC.;
JESSAMINE HEALTHCARE, INC. D/B/A
CORRECT CARE SOLUTIONS, LLC/
WELLPATH, LLC and CORRECT CARE
SOLUTIONS, LLC/WELLPATH, LLC,** :
:

Defendants. :
:

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, defendants, Delaware County d/b/a George W. Hill Correctional Facility, Laura K. Williams, Warden, Dele Faly, Deputy Warden of Programs and Support, Lisa Mastroddi, Deputy Warden of Operations and Administration, (hereinafter “the Delaware County Defendants”), by and through their undersigned counsel, timely remove this action from the Court of Common Pleas of Delaware County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania, on the following grounds:

1. On August 5, 2022, plaintiff Lamar Marshall filed a Complaint against the Delaware County Defendants, Jessamine Healthcare, Inc., Jessamine Healthcare, Inc. d/b/a Correct Care Solutions, LLC/ Wellpath, LLC and Correct Care Solutions, LLC/Wellpath, LLC, in the Court of Common Pleas of Delaware County, Pennsylvania, docketed at *Marshall v.*

Delaware County d/b/a George W. Correctional Facility, et al., No. CV-2022-004141. A true and correct copy of plaintiff's complaint is attached as Exhibit "A."

2. The Delaware County Defendants were served on August 10, 2022, and did not receive a copy of plaintiff's complaint, through service or otherwise, at any time prior to August 10, 2022.

3. This Notice of Removal is therefore timely filed within thirty (30) days of the receipt of the Complaint by the Delaware County Defendants as required by 28 U.S.C. § 1446(b).

4. 28 U.S.C. § 1331 states that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

5. Count I of Plaintiff's Complaint alleges a cause of action under 42 U.S.C. § 1983. The United States District Court for the Eastern District of Pennsylvania has original jurisdiction over these federal claims pursuant to 28 U.S.C. §1331. The Court also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

6. All alleged events set forth in the Complaint took place in Delaware County, Pennsylvania. Therefore, venue is proper in this Court pursuant to 28 U.S.C. § 1441(a).

7. Geo Group, Inc. was responsible for the operation of the George W. Hill Correctional Facility until the County assumed full operational control on April 6, 2022.

8. An Affidavit of Service indicates that a person with the first name of "Sam" was served on August 10, 2022 by leaving the Complaint with Nikki Miller. The method of service was defective because "Sam" is not a person employed by George W. Hill Correctional Facility. (See *Affidavits of Service*, attached hereto as Exhibit "B").

9. An Affidavit of Service indicates that the unnamed "Head of the Maintenance

Department” was served on August 10, 2022 by leaving the Complaint with Nikki Miller. The method of service was defective because there is no person with the name “Head of the Maintenance Department.” (*See Affidavits of Service*, attached hereto as Exhibit “B”).

10. An Affidavit of Service indicates that a “Mr. Banks” was served on August 10, 2022 by leaving the Complaint with Nikki Miller. (*See Affidavits of Service*, attached hereto as Exhibit “B”). The method of service was defective because there is no person with the name “Mr. Banks.”

11. In order for service of process upon an authorized agent to be effective, the party asserting the validity of process needs to demonstrate that the agent had either implied or express authority to accept process. *Scalla v. KWS, Inc.*, No. CV 18-1333, 2018 WL 6271646, at *4 (E.D. Pa. Nov. 30, 2018)(citing *United States ex rel. Thomas v. Siemens AG*, 708 F. Supp. 2d 505, 519 (E.D. Pa. 2010) and *Grand Entm’t Group v. Star Media Sales*, 988 F.2d 476, 478 (3d Cir. 1993)). There is also an issue of law as to whether Nikki Miller had express or implied authority to accept service on behalf of unknown persons who may have been employed by the former GEO Group employees.

12. No other named party has been properly served at the time of this removal.

13. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders received by the Delaware County Defendants in the action, excluding the complaint, which is attached as Exhibit “A”, are attached as Exhibit “C.”

14. True and correct copies of this Notice of Removal with accompanying exhibits and a separate Notice to State Court of Filing of Notice of Removal, a copy of which is attached hereto as Exhibit “D,” will be served upon counsel for plaintiff and filed with the Prothonotary of the Court of Common Pleas of Delaware County, Pennsylvania, in accordance with the

provisions of 28 U.S.C. § 1446(d).

15. In filing or consenting to this Notice of Removal, defendants do not waive any available defenses in this action.

WHEREFORE, defendants, Delaware County d/b/a George W. Hill Correctional Facility, Laura K. Williams, Warden, Dele Faly, Deputy Warden of Programs and Support, Lisa Mastroddi, Deputy Warden of Operations and Administration, request this action be removed from the Court of Common Pleas of Delaware County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania.

August 25, 2022

/s/Jeffrey M. Scott

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Defendants. :

CERTIFICATE OF SERVICE

The undersigned counsel for Defendants Delaware County d/b/a George W. Hill Correctional Facility, Laura K. Williams, Dele Faly and Lisa Mastroddi certifies that, on August 25, 2022, the foregoing Notice of Removal and supporting documents were filed electronically with the Court using the Electronic Filing System, and service was of such filing was made by First Class Mail, and addressed as follows:

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